

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

IN RE: UBER TECHNOLOGIES, INC.,  
PASSENGER SEXUAL ASSAULT  
LITIGATION

Case No. 23-md-03084-CRB (LJC)

**MASTER ORDER NO. 2**

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This Order Relates To:

*ALL ACTIONS*

In accordance with Master Order No. 1, the parties have submitted their respective positions on the current status of the privilege review. Dkts. 2343, 2344. After considering the volume of the privilege review and the current deposition schedule, the review will proceed as set forth in this order, subject to further adjustments as required.

**I. Background**

On February 6, 2025, after notice was given to all parties, the Court appointed the Master to “assist the Court with all disputes relating to privilege logs and the assertion of attorney client and work product privileges in this MDL, as well as any other matters at the Court’s direction.” Dkt. 2289 at 3. On February 12, 2025, the Master held a status conference with the parties to discuss the scope of the remaining review. Dkt. 2303. At the conference, recognizing the need for swift resolution of privilege issues, the parties agreed that the Master may communicate with them on an *ex parte* basis to address disputes.

Following the status conference, the parties confirmed that depositions for 28 custodians have been scheduled from February 24 through June 4, 2025. Dkt. 2344 at 7–9. Eight custodian depositions remain to be scheduled. *Id.* at 9–10.

## **II. Review Protocol A: Custodians with Depositions between February 5–March 21, 2025**

This procedure addresses the depositions that have already occurred or will occur in the near future for which the Master is unable to complete a timely review. Accordingly, the Master’s review of the privilege designations and challenges for these custodians will occur *after* the depositions take place.

Uber is ordered to produce revised privilege logs, de-designated documents, and redacted documents for the first 13 custodian deponents as set forth in Dkt. 2344 at 4–5 and as reproduced in Appendix A.<sup>1</sup>

The following procedures will govern the privilege review for these 13 custodians. If any of the following deadlines falls on a Saturday or Sunday, then the deadline shall be the next business day. The deadline for all items below is 4pm PST.

- (1) For the revised privilege logs that plaintiffs have already received, plaintiffs shall provide to Uber and the Master the list of plaintiffs’ challenges to the revised privilege logs within five days from the date of this order. By the same deadline, Uber shall provide copies of such revised privilege logs to the Master.

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<sup>1</sup> The parties agreed to specific production dates of revised privilege logs, de-designated documents, and redacted documents for the first 11 deponents. The parties also agreed that all remaining privilege logs, de-designated documents, and redacted documents would be produced on March 10, 2025. Dkt. 2344 at 5.

- (2) For the revised privilege logs plaintiffs have not yet received, seven days after receiving the revised privilege log, plaintiffs shall provide to Uber and to the Master the list of plaintiffs' challenges to the revised privilege log. By the same deadline, Uber shall provide copies of such revised privilege logs to the Master.
- (3) The parties shall promptly meet and confer to resolve the challenges.
- (4) Three days after plaintiffs provide challenges to the revised privilege log, they shall provide Uber and the Master the list of any privilege challenges remaining following the parties' meet and confer process.
- (5) Two days after plaintiffs provide the list of challenges remaining, Uber shall provide to the Master for *in camera* review all documents for which there remains an outstanding privilege challenge.
- (6) The parties may, but are not required to, submit briefs or affidavits in support of their position on the remaining challenges. These submissions must be provided to the Master within five days after the outstanding list of plaintiffs' challenges are provided to the Master.
- (7) The Master will promptly issue rulings on all outstanding challenges.
- (8) Within three days after the Master issues her rulings, the parties shall submit any objections to the privilege determinations. If necessary, the Master will confer directly with each party to resolve any objections.
- (9) Within three days after the Master resolves all objections, Uber shall produce all documents, whether in whole or with allowed redactions, that are (1) determined not to be privileged, and (2) not the subject of an appeal to the District Court.

(10) The parties shall make any appeals to the District Court pursuant to the procedures set out in Dkt. 2302.

**III. Review Protocol B: Custodians with Depositions Between March 26 – April 10, 2025**

This protocol provides review *before* the deposition of all custodians with depositions scheduled between March 26, 2025 – April 10, 2025. The list of Protocol B custodians is included as Appendix B. If any of the following deadlines falls on a Saturday or Sunday, then the deadline shall be the following business day. The deadline for all items below is 4pm PST.

- (1) Twenty-eight days before the scheduled deposition Uber shall serve the revised privilege log and produce the redacted documents for the corresponding custodian documents, and provide a copy to the Master.<sup>2</sup> Production of all de-designated documents for the corresponding custodian will continue to be due by March 10, 2025, as the parties agreed.
- (2) Five days after receiving the privilege log plaintiffs shall provide to Uber and the Master the plaintiffs' list of any challenges to the revised privilege log.
- (3) The parties shall promptly meet and confer to resolve the challenges.
- (4) Two days after plaintiffs provide their challenges to the revised privilege log, plaintiffs shall provide to Uber and the Master the list of any privilege challenges remaining following the parties' meet and confer process.

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<sup>2</sup> Under Protocol B, Uber is ordered to produce revised privilege logs and redacted documents 28 days prior to the scheduled deposition. However, the Protocol B timetable shall not be used to supersede Uber's obligation to produce *all* remaining revised privilege logs, de-designated documents, and redacted documents by March 10, 2025. Therefore, the Hawk, Holt, and Hasbun revised privilege logs, de-designated documents, and redacted documents remain due March 10, 2025, even though that date is greater than 28 days before the scheduled deposition.

- (5) One day after plaintiffs provide the list of challenges remaining, Uber shall provide to the Master for *in camera* review all documents for which there remains an outstanding privilege challenge.
- (6) The parties may, but are not required to, submit briefs or affidavits in support of their position on the remaining challenges. The submissions must be provided to the Master within three days after the outstanding list of plaintiffs' challenges are provided to the Master.
- (7) No later than ten days after receiving the documents for which challenges remain outstanding, the Master will issue rulings on all challenges.
- (8) Within two days after the Master issues her rulings, the parties shall submit any objections to the Master's privilege determinations. If necessary, the Master will confer directly with each party to resolve any objections. During this same time period, Uber shall produce all documents that are (1) determined by the Master not to be privileged and (2) not subject to an objection.
- (9) The parties shall make any appeals to the District Court pursuant to the procedures set out in Dkt. 2302. If, on the day of the scheduled deposition, an appeal is pending before the District Court, the deposition shall be held as scheduled, subject to plaintiffs' right to seek to reopen any deposition following a final ruling by the Court.

This Protocol B will continue on a rolling basis for all depositions scheduled on or before April 10, 2025. The Master will issue a report on the privilege determinations resolved to date. Following this report, the Master will determine whether she should continue reviewing 100% of challenged documents, or if a sampling procedure is sufficient.

Finally, as Protocol B is contingent upon the scheduled dates of custodian depositions, the parties must inform the Master promptly of any alterations to the deposition schedule that depart from the defendants Position on the Status of Privilege Review dated February 14, 2025. Dkt. 2344.

#### **IV. Forthcoming Protocols & Other Deadlines**

(1) Uber is ordered to produce revised privilege logs, de-designated documents, and redacted documents for all custodians that do not fall within Protocol A or Protocol B, i.e., with a deposition scheduled after April 10, 2025, by **March 10, 2025**.

(2) Uber is ordered to adhere to the deadlines as ordered by the Court in Dkt. 2028 for the production of documents created through December 1, 2024. After receiving the privilege logs for all documents, i.e., including the Slack and Google Drive documents, for the priority custodians on March 14, plaintiffs may raise a privilege challenge for any documents they believe may be relevant to upcoming depositions. The parties are ordered to meet, confer and submit a list of challenges at least 7 days prior to the scheduled deposition. If a challenge is received at least 7 days before the scheduled deposition, the Master will issue a ruling before the deposition. This process will repeat for the documents for the remaining privilege logs that are produced on March 24, 2025.

(3) The privilege review protocol for non-deponent and non-custodial documents will be determined in a subsequent order.

**V. Fees and Costs**

At the February 3, 2025, status conference, the Court indicated that the parties would bear the cost of the Master equally, subject to later reallocation. Neither party objected. Therefore, it is the Master's recommendation that each party shall bear the costs equally.<sup>3</sup>

All parties are reminded that previous orders of the Court pertaining to privilege issues should guide both privilege designations and privilege challenges. The Master encourages the parties to confer in good faith to resolve as many disputes as possible.

Dated: New York, New York  
February 18, 2024

  
HON. BARBARA S. JONES (Ret.)

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<sup>3</sup> Nevertheless, Rule 53(g) permits the District Court to allocate payment based on “the extent to which any party is more responsible than other parties for the reference to a master.” At the conclusion of the privilege review, the Master will make a recommendation as to cost based upon the results of the privilege review process and the parties’ cooperation with the procedures outlined above.

**Appendix A: Schedule for Protocol A Custodians**

<b>Custodial File</b>	<b>Deposition Date</b>	<b>Date of Production of De- Designated and Redacted Documents and Revised Privilege Log</b>
Chad Fogg	February 5, 2025	February 3, 2025
Cory Freivogel	February 6, 2025	February 4, 2025
Nairi HourDajian	February 7, 2025	February 5, 2025
Kate Parker	February 14, 2025	February 11, 2025
David Richter	February 24, 2025	February 11, 2015
Megan Joyce	February 26, 2025	February 14, 2025
Jenny Luu	February 27, 2025	February 18, 2025
Kayla Whaling	February 28, 2025	February 18, 2025
Pat Twomey	March 7, 2025	February 25, 2025
Tracey Breeden	March 13, 2025 and March 14, 2025	March 3, 2025
Catherine Gibbons	March 19, 2025	March 10, 2025
Jordan Burke	March 20, 2025 and March 21, 2025	March 10, 2025
Carley Lake	March 20, 2025 and March 21, 2025	March 10, 2025

**Appendix B: Schedule for Protocol B Custodians**

<b>Custodial File</b>	<b>Deposition Date</b>	<b>Date of Production of De- Designated and Redacted Documents and Revised Privilege Log</b>
Michael Sullivan	March 26, 2025	February 26, 2025
Gus Fuldner	March 26, 2025 and March 27, 2025	February 26, 2025
Dennis Cinelli	March 28, 2025	February 28, 2025
Abbie Ding	April 3, 2025	March 6, 2025
Brooke Anderson	April 3, 2025 and April 4, 2025	March 6, 2025
Cassie Hawk	April 8, 2025	March 10, 2025
Rachel Holt	April 9, 2025	March 10, 2025
Andrew Hasbun	April 10, 2025	March 10, 2025